

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

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EDWARD PINKESZ on behalf of himself and  
all other similarly situated consumers,

Plaintiff,

v.

PORTFOLIO RECOVERY ASSOCIATES,  
LLC,

Defendants.

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Hon. Sandra L. Townes  
Case No. 12-cv-02508-SLT-JO

**PORTFOLIO RECOVERY ASSOCIATES, LLC'S ANSWER TO  
PLAINTIFF'S COMPLAINT WITH AFFIRMATIVE DEFENSES**

Defendant Portfolio Recovery Associates, LLC (hereinafter referred to as "PRA") by and through its attorneys, Maurice & Needleman, P.C., hereby answer Plaintiff's Complaint as follows:

**INTRODUCTION**

1. The allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied. To the extent that the allegations are deemed factual as to PRA, they are denied.

2. The allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied. To the extent that the allegations are deemed factual as to PRA, they are denied.

- a. The allegations of this sub-paragraph contain conclusions of law to which no response is required and therefore they are denied. To the extent that the allegations are deemed factual as to PRA, they are denied.
- b. The allegations of this sub-paragraph contain conclusions of law to which no response is required and therefore they are denied. To the extent that the allegations are deemed factual as to PRA, they are denied.
- c. The allegations of this sub-paragraph contain conclusions of law to which no response is required and therefore they are denied. To the extent that the allegations are deemed factual as to PRA, they are denied.

3. The allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied. To the extent that the allegations are deemed factual as to PRA, they are denied.

4. The allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied. To the extent that the allegations are deemed factual as to PRA, they are denied.

5. The allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied. To the extent that the allegations are deemed factual as to PRA, they are denied.

### **PARTIES**

6. PRA is without sufficient personal knowledge and information to form a belief as to the truth of each allegation in this paragraph and, accordingly, these allegations are denied.

7. The allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied. To the extent that the allegations are deemed factual as to PRA, they are denied.

8. PRA is without sufficient personal knowledge and information to form a belief as to the truth of each allegation in this paragraph and, accordingly, these allegations are denied. In addition, the allegations that the account at issue is a “debt” within the meaning of 15 U.S.C. 1692a(5) is a conclusions of law to which no response is required and therefore they are denied.

9. Admitted.

10. PRA admits that its business involves the purchase and collection of receivable accounts but is without sufficient personal knowledge and information to form a belief as to the nature of these accounts and leaves plaintiff to his proofs. Any allegations that the account at issue is a “debt” within the meaning of 15 U.S.C. 1692a(5) is a conclusions of law to which no response is required and therefore they are denied.

11. The allegations of this paragraph contain conclusions of law to which no response is required.

### **JURISDICTION & VENUE**

12. The allegations of this paragraph contain conclusions of law to which no response is required.

13. The allegations of this paragraph contain conclusions of law to which no response is required.

**FACTS PARTICULAR TO EDWARD PINKESZ**

14. PRA admits only that it attempted to collect an account from Plaintiff. PRA is without sufficient personal knowledge and information to form a belief as to the truth of the remaining allegation in this paragraph and, accordingly, these allegations are denied. In addition, the allegation that the account at issue is a “debt” within the meaning of 15 U.S.C. 1692a(5) is a conclusions of law to which no response is required and therefore they are denied.

15. Denied.

16. PRA is without sufficient personal knowledge and information to form a belief as to the truth of each allegation in this paragraph and, accordingly, these allegations are denied. To the extent that the allegations are deemed factual as to PRA, they are denied.

17. PRA is without sufficient personal knowledge and information to form a belief as to the truth of each allegation in this paragraph and, accordingly, these allegations are denied. In addition, the allegations of this paragraph contain conclusions of law to which no response is required and, accordingly, these allegations are denied. To the extent that the allegations are deemed factual as to PRA, they are denied.

18. PRA is without sufficient personal knowledge and information to form a belief as to the truth of each allegation in this paragraph and, accordingly, these allegations are denied. In addition, the allegations of this paragraph contain conclusions of law to which no response is required and, accordingly, these allegations are denied. To the extent that the allegations are deemed factual as to PRA, they are denied.

19. The allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied. To the extent that the allegations are deemed factual as to PRA, they are denied.

20. The allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied. To the extent that the allegations are deemed factual as to PRA, they are denied.

21. Denied. The allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied. To the extent that the allegations are deemed factual as to PRA, they are denied.

22. Denied. The allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied. To the extent that the allegations are deemed factual as to PRA, they are denied.

23. Denied. The allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied. To the extent that the allegations are deemed factual as to PRA, they are denied.

24. The allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied. To the extent that the allegations are deemed factual as to PRA, they are denied.

25. Denied. The allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied. To the extent that the allegations are deemed factual as to PRA, they are denied.

26. Denied. The allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied. To the extent that the allegations are deemed factual as to PRA, they are denied.

27. Denied. The allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied. To the extent that the allegations are deemed factual as to PRA, they are denied.

28. Denied. The allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied. To the extent that the allegations are deemed factual as to PRA, they are denied.

29. Denied. The allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied. To the extent that the allegations are deemed factual as to PRA, they are denied.

a. Denied. The allegations of this sub-paragraph contain conclusions of law to which no response is required and therefore they are denied. To the extent that the allegations are deemed factual as to PRA, they are denied.

b. Denied. The allegations of this sub-paragraph contain conclusions of law to which no response is required and therefore they are denied. To the extent that the allegations are deemed factual as to PRA, they are denied.

c. Denied. The allegations of this sub-paragraph contain conclusions of law to which no response is required and therefore they are denied. To the extent that the allegations are deemed factual as to PRA, they are denied.

30. Denied. The allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied. To the extent that the allegations are deemed factual as to PRA, they are denied.

31. Denied. The allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied. To the extent that the allegations are deemed factual as to PRA, they are denied.

32. Denied. The allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied. To the extent that the allegations are deemed factual as to PRA, they are denied.

33. Denied. The allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied. To the extent that the allegations are deemed factual as to PRA, they are denied.

#### **CLASS ALLEGATIONS**

34. PRA is without sufficient personal knowledge and information to form a belief as to the truth of each allegation in this paragraph and, accordingly, these allegations are denied. In addition, the allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied. To the extent that the allegations are deemed factual as to PRA, they are denied.

35. PRA is without sufficient personal knowledge and information to form a belief as to the truth of each allegation in this paragraph and, accordingly, these allegations are denied. In addition, the allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied. To the extent that the allegations are deemed factual as to PRA, they are denied.

36. PRA is without sufficient personal knowledge and information to form a belief as to the truth of each allegation in this paragraph and, accordingly, these allegations are denied. In addition, the allegations of this paragraph contain conclusions of law to which no response is

required and therefore they are denied. To the extent that the allegations are deemed factual as to PRA, they are denied.

37. PRA is without sufficient personal knowledge and information to form a belief as to the truth of each allegation in this paragraph and, accordingly, these allegations are denied. In addition, the allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied. To the extent that the allegations are deemed factual as to PRA, they are denied.

38. PRA is without sufficient personal knowledge and information to form a belief as to the truth of each allegation in this paragraph and, accordingly, these allegations are denied. In addition, the allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied. To the extent that the allegations are deemed factual as to PRA, they are denied.

39. PRA is without sufficient personal knowledge and information to form a belief as to the truth of each allegation in this paragraph and, accordingly, these allegations are denied. In addition, the allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied. To the extent that the allegations are deemed factual as to PRA, they are denied.

40. PRA is without sufficient personal knowledge and information to form a belief as to the truth of each allegation in this paragraph and, accordingly, these allegations are denied. In addition, the allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied. To the extent that the allegations are deemed factual as to PRA, they are denied.



41. PRA is without sufficient personal knowledge and information to form a belief as to the truth of each allegation in this paragraph and, accordingly, these allegations are denied. In addition, the allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied. To the extent that the allegations are deemed factual as to PRA, they are denied.

- a. PRA is without sufficient personal knowledge and information to form a belief as to the truth of each allegation in this sub-paragraph and, accordingly, these allegations are denied. In addition, the allegations of this sub-paragraph contain conclusions of law to which no response is required and therefore they are denied. To the extent that the allegations are deemed factual as to PRA, they are denied.
- b. PRA is without sufficient personal knowledge and information to form a belief as to the truth of each allegation in this sub-paragraph and, accordingly, these allegations are denied. In addition, the allegations of this sub-paragraph contain conclusions of law to which no response is required and therefore they are denied. To the extent that the allegations are deemed factual as to PRA, they are denied.
- c. PRA is without sufficient personal knowledge and information to form a belief as to the truth of each allegation in this sub-paragraph and, accordingly, these allegations are denied. In addition, the allegations of this sub-paragraph contain conclusions of law to which no response is required and therefore they are denied. To the extent that the allegations are deemed factual as to PRA, they are denied.

- d. PRA is without sufficient personal knowledge and information to form a belief as to the truth of each allegation in this sub-paragraph and, accordingly, these allegations are denied. In addition, the allegations of this sub-paragraph contain conclusions of law to which no response is required and therefore they are denied. To the extent that the allegations are deemed factual as to PRA, they are denied.
- e. PRA is without sufficient personal knowledge and information to form a belief as to the truth of each allegation in this sub-paragraph and, accordingly, these allegations are denied. In addition, the allegations of this sub-paragraph contain conclusions of law to which no response is required and therefore they are denied. To the extent that the allegations are deemed factual as to PRA, they are denied.

42. PRA is without sufficient personal knowledge and information to form a belief as to the truth of each allegation in this paragraph and, accordingly, these allegations are denied. In addition, the allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied. To the extent that the allegations are deemed factual as to PRA, they are denied.

43. PRA is without sufficient personal knowledge and information to form a belief as to the truth of each allegation in this paragraph and, accordingly, these allegations are denied. In addition, the allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied. To the extent that the allegations are deemed factual as to PRA, they are denied.

44. PRA is without sufficient personal knowledge and information to form a belief as to the truth of each allegation in this paragraph and, accordingly, these allegations are denied. In addition, the allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied. To the extent that the allegations are deemed factual as to PRA, they are denied.

### **FIRST CAUSE OF ACTION**

45. PRA repeats and incorporates by reference herein its responses to paragraphs one (1) through forty-four (44) as if set forth fully herein.

46. Denied. The allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied. To the extent that the allegations are deemed factual as to PRA, they are denied.

- a. Denied. The allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied. To the extent that the allegations are deemed factual as to PRA, they are denied.
- b. Denied. The allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied. To the extent that the allegations are deemed factual as to PRA, they are denied.
- c. Denied. The allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied. To the extent that the allegations are deemed factual as to PRA, they are denied.
- d. Denied. The allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied. To the extent that the allegations are deemed factual as to PRA, they are denied.

- e. Denied. The allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied. To the extent that the allegations are deemed factual as to PRA, they are denied.

WHEREFORE, Portfolio Recovery Associates, LLC demands that the complaint be dismissed with prejudice and that they be awarded costs of this action, attorneys' fees pursuant to 15 U.S.C. § 1692k(a)(3) and such other relief as this Honorable Court may deem appropriate.

### **AFFIRMATIVE DEFENSES**

#### **FIRST AFFIRMATIVE DEFENSE**

If a violation of the Fair Debt Collection Practices Act is determined to have occurred, the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably calculated to avoid such error.

#### **SECOND AFFIRMATIVE DEFENSE**

Plaintiff has failed to state a claim upon which relief can be granted.

#### **THIRD AFFIRMATIVE DEFENSE**

Plaintiff suffered no actual damages as a result of PRA's alleged conduct.

#### **FOURTH AFFIRMATIVE DEFENSE**

If discovery reveals that the Debt is subject to an agreement requiring the parties to submit any dispute between them to arbitration, then there is no subject matter jurisdiction over Plaintiff's Complaint.

Respectfully Submitted,  
MAURICE & NEEDLEMAN, P.C.  
Attorneys for Defendant, Portfolio Recovery  
Associates, LLC

By: /s/ Thomas R. Dominczyk  
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Date: November 26, 2012

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Answer and Affirmative Defenses was served on this date via ECF and regular mail addressed to the following:

Maxim Maximov, Esq.  
1600 Avenue M, 2<sup>nd</sup> Floor  
Brooklyn, NY 11230

Dated: November 26, 2012

MAURICE & NEEDLEMAN, P.C.  
Attorneys for Defendant  
Portfolio Recovery Associates, LLC

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